

**SUMMARIZED MINUTES
SCOTTSDALE CITY COUNCIL
TUESDAY, NOVEMBER 15, 2005**



**CITY HALL KIVA
3939 N. DRINKWATER BOULEVARD
SCOTTSDALE, AZ 85251**

CALL TO ORDER

Mayor Manross called to order a Regular Meeting of the Scottsdale City Council on Tuesday, November 15, 2005 in the City Hall Kiva, at 5:14 P.M.

ROLL CALL

Present: Mayor Mary Manross
Vice Mayor Ron McCullagh
Council Members Betty Drake, Wayne Ecton, W.J. "Jim" Lane,
Robert Littlefield, and Kevin Osterman

Also Present: City Manager Jan Dolan
Acting City Attorney Deborah Robberson
City Clerk Carolyn Jagger

PLEDGE OF ALLEGIANCE – Explorers Mark Egidi and Marcus Dunton, Post #908

INVOCATION - None

PRESENTATIONS/INFORMATION UPDATES

- Andy Clarke, Executive Director of the League of American Bicyclists, recognized Scottsdale as a Bicycle Friendly Community, one of fifty-two in the United States.

APPOINTMENT

- Consider appointment of Associate City Judge

COUNCILMEMBER DRAKE MOVED TO APPOINT WENDY MORTON AS ASSOCIATE CITY JUDGE FOR A TWO-YEAR TERM EFFECTIVE JANUARY 4, 2006 THROUGH JANUARY 4, 2008. COUNCILMAN ECTON SECONDED THE MOTION, WHICH CARRIED 7-0.

NOTE IN ACCORDANCE WITH PROVISIONS OF THE ARIZONA REVISED STATUTES THE SUMMARIZED MINUTES OF CITY COUNCIL MEETINGS ARE NOT VERBATIM TRANSCRIPTS. ONLY THE ACTIONS TAKEN AND DISCUSSION APPEARING WITH QUOTATION MARKS ARE VERBATIM. DIGITAL RECORDINGS OF CITY COUNCIL MEETINGS ARE ON FILE IN THE CITY CLERK'S OFFICE.

BOARDS, COMMISSIONS, AND TASK FORCE NOMINATIONS (Note: Interviews and Appointments Scheduled for December 12, 2005)

- Airport Advisory Commission (1 opening) – Nominated: Thomas Guilfooy, William O'Donnell, and Wendy Springborn-Pitman
- Historic Preservation Commission (1 opening) – Nominated: Arthur Secunda and Edward Wimmer
- Parks and Recreation Commission (2 opening) – Nominated: Robert Frost, Douglas McFetters, James Monroe, Lisa Perez, Ronald Petersen, and Paul Reich
- Scottsdale Pride Committee (1 opening) – Nominated: Russ Cutlip, Karen Grobman, and Roberta Hendrickson
- Tourism Development Commission (1 Industry Commissioner opening, 1 Hotelier Commissioner opening) – Nominated: Kate Cavaliere, Kiaran MacDonald, and Sally Shaffer

PUBLIC COMMENT

Lois Fitch and Sonnie Stevens, Downtown Ambassadors, 1229 N Granite Reef Rd, 85257, provided information on their organization, which promotes Scottsdale and assists tourists.

Mike Aloisi, 6846 N 72nd Pl, 85250, supported forming a public safety commission. Mr. Aloisi urged citizens to write letters about police protection to the Mayor, Council, and Police Chief.

MINUTES

SPECIAL MEETINGS
October 18, 2005

REGULAR MEETINGS
October 18, 2005
October 24, 2005
October 25, 2005

COUNCILMAN LANE MOVED TO APPROVE THE SPECIAL AND REGULAR MINUTES OF OCTOBER 18, 2005, AND THE REGULAR MINUTES OF OCTOBER 24 AND 25, 2005. VICE MAYOR MCCULLAGH SECONDED THE MOTION, WHICH CARRIED 7-0.

CONSENT AGENDA **ITEMS 1-18**

1. Agent Change for Ra Sushi (Restaurant) Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for an agent change for a series 12 (restaurant) liquor license.

Location: 3815 N. Scottsdale Road

Reference: 101-LL-2002#2

Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Connie Padian, Customer Service Chief Officer, 480-312-2664, cpadian@scottsdaleaz.gov

2. Jamaican Blue (Beer and Wine Bar) Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a person transfer of a series 7 (beer and wine bar) liquor license.

Location: 4017 N. Scottsdale Road

Reference: 55-LL-2005

Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Connie Padian, Customer Service Chief Officer, 480-312-2664, cpadian@scottsdaleaz.gov

3. Jamaican Blue Conditional Use Permit

Request: Consider renewal of the current conditional use permit and modify the existing stipulations for a beer and wine bar in a suite of the existing building located at 4017 N. Scottsdale Road with Downtown, Retail Specialty Type 1 District, Downtown Overlay (D/RS-1 DO) zoning.

Location: 4017 N. Scottsdale Road, Ste. 104

Reference: 5-UP-2004#2

Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Randy Grant, Chief Planning Officer, 480-312-7995, rgrant@scottsdaleaz.gov

4. WineStyles (Beer and Wine Bar) Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a person and location transfer of a series 7 (beer and wine bar) liquor license.

Location: 14148 N. 100th Street, Suite C-2

Reference: 59-LL-2005

Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Connie Padian, Customer Service Chief Officer, 480-312-2664, cpadian@scottsdaleaz.gov

5. Dragonfly Café (Restaurant) Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) liquor license.

Location: 10135 E. Via Linda

Reference: 62-LL-2005

Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Connie Padian, Customer Service Chief Officer, 480-312-2664, cpadian@scottsdaleaz.gov

6. Baguette's Bistro (Beer and Wine Bar) Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a person transfer of a series 7 (beer and wine bar) liquor license.

Location: 14362 N. Frank Lloyd Wright Boulevard, Ste. B-104

Reference: 63-LL-2005

Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Connie Padian, Customer Service Chief Officer, 480-312-2664, cpadian@scottsdaleaz.gov

7. Saigon Nites Vietnamese Restaurant (Restaurant) Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) liquor license for an existing location.

Location: 15111 N. Hayden Road, #110

Reference: 65-LL-2005

Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Connie Padian, Customer Service Chief Officer, 480-312-2664, cpadian@scottsdaleaz.gov

8. Hotel Valley Ho (Hotel/Motel with Restaurant) Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 11 (hotel/motel w/restaurant) liquor license.

Location: 6850 E. Main Street

Reference: 67-LL-2005

Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Connie Padian, Customer Service Chief Officer, 480-312-2664, cpadian@scottsdaleaz.gov

9. Reimbursement for Costs Related to the Cave Creek Complex Fire

Request: Approve an \$110,000 General Fund operating contingency transfer to pay for the one percent (1%) of the City's cost share of fighting the Cave Creek Complex Fire.

Staff Contact(s): William L. McDonald, Fire Chief, 480-312-1802, wmcdonald@scottsdaleaz.gov; Craig Clifford, Chief Financial Officer, 480-312-2364, cclifford@scottsdaleaz.gov

10. Fire Department Transition Cost Reconciliation

Requests:

1. Approve a \$400,000 capital contingency budget transfer to the Fire Capital Transition Budget (Project E0502 - Fire Transition Costs) to finalize the transition costs and to enable the closeout of the project.
2. Approve a \$121,645 capital contingency budget transfer to the Fire Communications Project Budget (Project E0506 – Fire Service Communications) to finalize the transition costs and to enable closeout of the project.

Staff Contact(s): Willie McDonald, Fire Chief, 480-312-1880, wmcdonald@scottsdaleaz.gov;

11. Authorization of an offer of Judgment in the Lemke v. City of Scottsdale lawsuit

Request: Adopt Resolution No. 6786 authorizing the City to extend an Offer of Judgment to the Plaintiffs a lawsuit entitled *Lemke v. City of Scottsdale, et al.*, Maricopa County Superior Court, Case No. CV2003-014321, in the amount of \$300,000.

Staff Contact(s): Deborah Robberson, Acting City Attorney, 480-312-2405, drobberson@scottsdaleaz.gov; Michael Mason, Claims Manager, Risk Management Division, 480-312-7040, mmason@scottsdaleaz.gov

Mayor Manross noted that the amount should be \$350,000 instead of \$300,000.

- 12. Authorize Settlement in Cox Communications, Inc. v. City of Scottsdale lawsuit**
Request: Adopt Resolution No. 6785 authorizing settlement in the amount of \$122,500 to resolve a lawsuit entitled *Cox Communications v. City of Scottsdale, et al.*, Cause No. CV2004-019716, currently pending in Maricopa County Superior Court.
Staff Contact(s): Deborah Robberson, Acting City Attorney, 480-312-2405, drobberson@scottsdaleaz.gov; Michael Mason, Claims Manager, Risk Management Division, 480-312-7040, mmason@scottsdaleaz.gov
- 13. Concessionaire License Agreement for Computer Printing and Photocopying Services at the Scottsdale Public Libraries**
Request: Adopt Resolution No. 6770 authorizing Concessionaire License Agreement No. 2005-166-COS with EnvisionWare, Inc., a Georgia corporation, to install and maintain computer printing and photocopying services for use by the general public in all Scottsdale Public Libraries.
Related Policies, References:
 - Section 2-221(a) of the Scottsdale Revised Code allows licensing and leasing of City real-property interests by means of a competitive solicitation process.
 - In 2002, Resolution No. 6189 authorized License Agreement No. 2002-119-COS with Card Meter Systems, Inc. (CMS) to provide similar services to the libraries. This agreement expires in December 2005.**Staff Contact(s):** Rita Hamilton, Library Director, 480-312-7039, rhamilton@scottsdaleaz.gov
- 14. Construction Manager at Risk for Pre-construction Services for Pima Road from Loop 101 Freeway to Pinnacle Peak Road**
Request: Authorize Construction Manager at Risk (*CM@Risk*) Contract No. 2005-167-COS with Achen-Gardner Engineering LLC in then amount of \$324,246 for pre-construction services for Pima Road from Loop 101 Freeway to Pinnacle Peak Road.
Related Policies, References:
 - Council awarded Engineering Services Contract 2003-114-COS to Entellus, Inc. for design of improvements to Pima Road from the Pima Freeway to Thompson Peak Parkway on June 16, 2003.
 - Council awarded a construction contract to Desierto Verde Inc for the salvaging, storing and planting of native plant vegetation on September 6, 2005.**Staff Contact(s):** Al Dreska, Municipal Services General Manager, 480-312-5555, adreska@scottsdaleaz.gov
- 15. Right-of-Way Acquisition for Widening of Cactus Road**
Request: Adopt Resolution No. 6723 authorizing the acquisition of various rights-of-way interests from properties located along Cactus Road from the Pima Freeway to Frank Lloyd Wright Boulevard.
Related Policies, References: On October 14, 2003, Council authorized Engineering Services Contract #2003-154-COS for the design of roadway and drainage improvements on Cactus Road between the Pima Freeway and Frank Lloyd Wright Boulevard.
Staff Contact(s): Al Dreska, Municipal Services General Manager, 480-312-5555, adreska@scottsdaleaz.gov
- 16. Consideration of Appointment of Deborah Robberson as City Attorney**
Request: Consider the appointment of Deborah Robberson as City Attorney.

Staff Contact(s): Teri Traaen, Human Services General Manager, 480-312-2615, ttraaen@scottsdaleaz.gov

17. **Design-Build Agreement for the Design and Construction of Infrastructure Improvements for the ASU/Scottsdale Center for New Technology and Innovation**
Request: Authorize Design-Build Services Agreement No. 2005-182-COS with Higgins Development Partners Design Build Team, in an amount not to exceed \$7,900,000 for the design and construction of infrastructure improvements for the ASU/Scottsdale Center for New Technology and Innovation.

Related Policies, References:

- Council approved Lease Agreement No. 2004-119-COS with the ASU Foundation on July 6, 2004. This established a ground lease for development of the ASU/Scottsdale Center for New Technology and Innovation.
- Council approved a \$9 million Capital Budget transfer to fund initial public infrastructure expenditures related to the property on July 6, 2004.
- Council approved a request to rezone the property to PC (Planned Community) District on June 21, 2005 (Case # 26-ZN-2004).

Staff Contact(s): Ed Gawf, Deputy City Manager, 480-312-4510, egawf@scottsdaleaz.gov; Al Dreska, Municipal Services General Manager, 480-312-5555, adreska@scottsdaleaz.gov

18. **Selective Traffic Enforcement Program Grant (STEP)**
Requests:

1. Adopt Resolution No. 6776 authorizing the Police Department to accept the Governor's Office of Highway Safety STEP grant (2005-157A-003) for \$100,000. The grant will allow the Police Department's Traffic Enforcement Unit to purchase speed detection devices and to reimburse program overtime and employee related items. The grant does not require the City to match grant funding.
2. Authorize the transfer of \$100,000 in Future Grants budget to the assigned grant center. The grant was anticipated and included in the adopted Grants Budget for FY 2005/06.

Staff Contact(s): Alan Rodbell, Chief of Police, 480-312-5310, arodbell@scottsdaleaz.gov

MOTION AND VOTE – CONSENT AGENDA

COUNCILMAN OSTERMAN MOVED FOR APPROVAL OF CONSENT AGENDA ITEMS 1 THROUGH 18, WITH OPTION A FOR ITEMS 12 AND 13, AND OPTION B FOR ITEM 18. COUNCILMAN LITTLEFIELD SECONDED THE MOTION, WHICH CARRIED 7-0.

REGULAR AGENDA ITEMS 19 - 20

19. **Ordinance Regarding Restriction or Ban of Motorized Skateboards and Similar Vehicles**
Request: Adopt Ordinance No. 3653 regarding the restriction or ban of motorized skateboards and similar vehicles.
Related Policies, References: City of Scottsdale Revised Code, Article IV, Section 17-90 to 17-97.

Staff Contact(s): Deborah Robberson, Acting City Attorney, 480-312-2405, drobberson@scottsdaleaz.gov; Alan Rodbell, Chief of Police, 480-312-5310, arodbell@scottsdaleaz.gov; Mary O'Connor, Transportation General Manager, 480-312-2334, moconnor@scottsdaleaz.gov

Staff summarized information provided at previous meetings and reviewed the three options available for action on Item 19:

- Option A – Additional restrictions including limited hours of operation and a helmet requirement
- Option B – Prohibits operation on all public property and private streets
- Option C – Leave existing ordinance in place – no action

Mayor Manross opened public testimony:

Rochelle Harris, 8506 E Rancho Vista, 85251, urged Council not to ban the use of motorized personal vehicles (MPVs). Ms. Harris encouraged development of a rider education program and the use of silencers, which significantly reduce the noise created by MPVs.

Ron Barr, 5021 E Sweetwater, 85254, opposed a ban, and believes regulations and parental supervision are needed.

Joseph Bergdoll, 10406 E Tierra Buena Ln, 85255, supported additional restrictions but not a ban.

JoAnn Bergdoll, 10406 E Tierra Buena Ln, 85255, said she and others have worked with staff to help create regulations that reflect the majority's will, and not that of the vocal minority.

Howard Myers, 6631 E Horned Owl Tr, 85262, said Council should do the responsible thing and ban motorized personal vehicles due to safety and noise issues.

Mayor Manross closed public testimony.

Council discussion:

- There was support for additional rider education and community involvement in enforcement.
- While there is a perception that MPVs are dangerous, the data doesn't support that perception.
- It was suggested that all noise issues be addressed and a noise ordinance be created.
- Several of the Council believe that a total ban would impact personal freedom, penalizing many young people for the misbehavior of a few.
- Others supported a total ban, pointing out that MPVs are not safe on the streets, nor can they be licensed or insured.
- There was general agreement that enforcement will continue to be very difficult.
- Some supported even stronger enforcement regulations and penalties than those presented in Option A.

MOTION AND VOTE – ITEM 19

COUNCILMAN LANE MOVED TO APPROVE ORDINANCE NO. 3653, OPTION A. VICE MAYOR MCCULLAGH SECONDED THE MOTION, WHICH CARRIED 4-3, WITH MAYOR MANROSS, AND COUNCILMEN ECTON AND LITTLEFIELD DISSENTING.

20. Acquisition of Control Change for Babe's Cabaret

Request: Consider an Acquisition of Control change for Babe's Cabaret.

Location: 2011 N. Scottsdale Road

Reference: 53-LL-2004#2

Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Connie Padian, Customer Service Chief Officer, 480-312-2664, cpadian@scottsdaleaz.gov

Jerry Lukewicz, attorney for the applicant, requested a continuance.

MOTION AND VOTE – ITEM 20

COUNCILMEMBER DRAKE MOVED TO CONTINUE ITEM 20, CASE 53-LL-2004#2, TO A DATE UNCERTAIN. COUNCILMAN LANE SECONDED THE MOTION, WHICH CARRIED 7-0.

MAYOR AND COUNCIL ITEMS 21 - 22

21. Consider Requiring Retailers to Monitor Sales of any Over-the-Counter Drugs Containing Ephedrine or Pseudoephedrine

Request: At Councilman Wayne Ecton's request, adopt Ordinance No. 3647 adding Section 19-22 and Section 19-23 to the Scottsdale Revised Code relating to the sale of products containing ephedrine or pseudoephedrine; regulating the manner of sale; providing for the seizure and forfeiture of improperly displayed products; requiring identification of purchasers; and requiring that purchases be reported to the Scottsdale Police Department.

Staff Contact(s): Deborah Robberson, Acting City Attorney, 480-312-2405, dobberson@scottsdaleaz.gov; Alan Rodbell, Chief of Police, 480-312-5310, arodbell@scottsdaleaz.gov

Police Chief Alan Rodbell, Tim Black and Richard Travis of the Arizona Attorney General's Office, and Phoenix Councilman Simplot, presented the following information:

- Problems and dangers associated with Methamphetamine
- Community involvement
- Regulation by other jurisdictions
 - Arizona statute
 - Jurisdictions passing ordinances with further restrictions
 - Oklahoma's successful legislation
 - San Francisco's Crystal Meth Task Force
- Options for Council consideration
 - A. Adopt Ordinance No. 3647
 - B. Adopt Ordinance without identification and reporting requirements

- C. Direct Government Relations staff to support efforts to pursue stronger legislation in the 2006 State legislative session
- D. Take no action on this item at this time
- E. Approve ordinance with language eliminating the requirement that retailers submit reports to the Police Department, but maintain reports for inspection for a period of 90 days.

Mayor Manross opened public testimony:

Martha Seaman, 7419 E Palm Ln, 85257, believes cities must take the initiative and encouraged the Council to take a strong position on this issue to discourage neighborhood methamphetamine labs. Ms. Seaman supports having retailers keep drugs locked up and the use of a logbook.

Rachel Yetter, 8683 E Portland St, 85257, asked that the Council take a stand and approve Option A, which includes a logbook requirement.

Dick White, 10815 N 84th St, 85260, supported Options A and E. Mr. White said that the State of Iowa passed a law very similar to Option A, which resulted in a 75% drop in lab busts.

Dave Hoochstrasser, 8346 E Granada Rd, 85257, believes the City should set an example and take the steps necessary to eliminate methamphetamine labs.

Howard Myers, 6631 E Horned Owl Tr, 85262, said the downside of the ordinance would be that allergy sufferers, like himself, would have a problem getting the drugs they need. He said he was afraid the bureaucracy created by implementing the ordinance would result in retailers deciding to no longer sell products containing ephedrine or pseudoephedrine.

Mayor Manross closed public testimony. Additional comment cards were received from citizens not wishing to speak: 15 in favor, 2 opposed.

Council discussion:

- It is important to eliminate home methamphetamine labs to protect neighborhoods.
- The State and Federal governments also need to take action.
- The ordinance will be a step in the right direction and send a strong message to the legislature.
- Some opposed having people sign a log and provide identification.
- There was support for a more stringent restriction on the quantity of ephedrine or pseudoephedrine which could be purchased. City Attorney Robberson clarified that there is a pre-emption clause in State law that prohibits local jurisdictions from placing greater restrictions on the amount purchased.
- There was a suggestion that staff respond to the Governor's request to participate in establishing a local anti-methamphetamine coalition, and ask the Salt-River-Pima Maricopa Indian Community to participate in the coalition as well.
- Those Councilmembers supporting Option A believe the logbook is important to the effectiveness of the ordinance.
- Option E would have less impact on the police department in terms of record-keeping and staff time.

- Councilman Ecton reported that the retailers he had spoken with had no objections to retaining the logbooks.
- Police Chief Rodbell said it would be difficult to sift through the logbooks of approximately 360 retailers each month, but the Police Department would do so if that is what the ordinance required. Chief Rodbell believes that it would be just as effective to have access to the logbooks at the retail locations on an as needed basis.
- The ordinance does not address the larger problem of the methamphetamine superlabs in Mexico and the stream of drugs coming over the border.
- There was support for the City to focus on education and prevention.

MOTION AND VOTE – ITEM 21

COUNCILMAN LANE MOVED TO ADOPT ORDINANCE NO. 3647 WITH OPTION B, WHICH EXCLUDES THE IDENTIFICATION AND REPORTING REQUIREMENTS. COUNCILMAN LITTLEFIELD SECONDED THE MOTION, WHICH FAILED 3-4, WITH MAYOR MANROSS AND COUNCILMEMBERS DRAKE, ECTON, AND OSTERMAN DISSENTING.

COUNCILMAN ECTON MOVED TO ADOPT ORDINANCE NO. 3647, OPTIONS A AND E. COUNCILMAN OSTERMAN SECONDED THE MOTION.

COUNCILMAN LANE MOVED TO AMEND THE MOTION TO DIRECT STAFF TO RESPOND TO THE ARIZONA PARENTS COMMISSION ON DRUG EDUCATION AND PREVENTION REQUEST FOR FUNDING OF A LOCAL ANTI-METHAMPHETAMINE COALITION, AND ASK THE SALT-RIVER-PIMA INDIAN COMMUNITY TO JOIN IN THAT COALITION. THE MAKER AND SECONDER OF THE MOTION AGREED TO THE AMENDMENT, WHICH CARRIED 7-0.

THE MOTION TO ADOPT ORDINANCE NO. 3647, OPTIONS A AND E, AS AMENDED, CARRIED 7-0.

22. Citizen Petition Requesting Process Investigation and that the City Demand the Arizona American Water Company Bury their Water Tanks

Request: Consideration and/or direction on a citizen petition, as provided for by City Charter, requesting a full investigation by City Staff and the City Council, from project initiation through permit approvals prior to the Arizona American Water Company's commencement of construction of the planned water tanks. Petitioners also request that the City Council demand that the Arizona American Water Company bury the tanks in question, either at a proposed site or at a different location, to be determined by the City Council. The petition, along with other materials, were presented to the City Council at the October 18, 2005 City Council meeting.

Related Policies, References: City Charter, Article 2, Section 16 states: Any citizen of the City may appear before the Council at any regular meeting and present a written petition; such petition shall be acted upon by the Council, in the regular course of business, within thirty (30) days.

Staff Contact(s): Deborah Robberson, Acting City Attorney, 480-312-2405, drobberson@scottsdaleaz.gov; 480-312-7816; Randy Grant, Chief Planning Officer, 480-312-7995, rgrant@scottsdaleaz.gov

Jim Palecek, Attorney for the citizens who submitted the petition, reviewed several excerpts from reports, applications, and meetings, indicating misrepresentations on the necessity and purpose of the tanks. It is his belief that one tank is to be used for Paradise Valley fire flow pressure. Mr. Palecek suggested that the conditional use permit should not have been granted because there is no benefit to Scottsdale. He also said Council was presented inaccurate information regarding the views of the tanks, screening of the tanks, and the EPA deadlines. He requested that the Council revoke the conditional use permit for these tanks.

Mayor Manross opened public testimony:

Patty Badenoch, 5027 N 71st Pl, 85253, said the tanks never should have been approved, and they should now be buried, screened, or put elsewhere.

Roland Kueffner, 3326 N 85th Pl, 85251, summarized his discussions with Technical Solutions and stated that he was never told the tanks would be constructed next to his property line. He wonders who would endorse such ugly structures in a preserved, historic area.

Kirsten Kueffner, 6207 N Cattletrack Rd, 85250, pointed out that the timeline supplied by the attorney for the water company was incomplete and deceptive. She said they were fully aware of her opposition, but deny having any knowledge of it. Ms. Kueffner said she had believed the Council would protect this special campus with historic overlay.

Darlene Petersen, 7327 E Wilshire Dr, 85257, said the Council was lied to and would be negligent if they didn't revoke this use permit or require that the tanks be buried.

Tony Nelssen, 7736 E Redbird Rd, 85262, wonders why there is a double standard in Scottsdale, as many tanks in northern Scottsdale have been buried.

Eric Nesvig, 6441 N 77th Pl, 85250, asked the Council to consider having city staff review their claims, look at the facts, and come to an equitable plan for all.

Mayor Manross closed public testimony. Additional comment cards were received from citizens not wishing to speak. 7 in favor, 1 opposed.

Council discussion:

- It was noted that the public testimony did not address the use permit question, and that the Council's original action was consistent with use permit criteria.
- The water company's decision to use one of the tanks for fire flow pressure is not a consideration.
- The fact that part of the water will be used for Paradise Valley was already known.
- Councilman McCullagh believes that the Council's approval of the tanks was a mistake.

COUNCILMAN MCCULLAGH MOVED TO DIRECT STAFF TO AGENDIZE AND INVESTIGATE ITEM 22. THE MOTION DIED FOR LACK OF A SECOND.

City Attorney Deborah Robberson stated that the issues discussed were not relevant to criteria for use permits and, therefore, provided no basis to change the Council's action. Ms. Robberson said that litigation is pending and should be allowed to run its course. She advised not taking any action that might be counterproductive.

CITY MANAGER'S REPORT - None

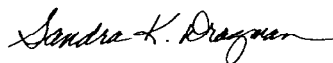
PUBLIC COMMENT

Howard Myers, 6631 E Horned Owl Tr, 85262, referenced a pending lawsuit regarding a previous Council decision not to allow a school at Sonrise Church. Mr. Myers urged the Council to stand behind their decision and let the lawsuit go to court, as there was no wrongdoing. He believes settling with the church would be an admission of guilt. He also believes Council should consider changing regulations so that any non-residential use on residential land would require a use permit.

ADJOURNMENT

With no further business to discuss, the meeting adjourned at 9:23 P.M.

SUBMITTED BY:



Sandy Dragman
Recording Secretary

REVIEWED BY:



Carolyn Jagger
City Clerk

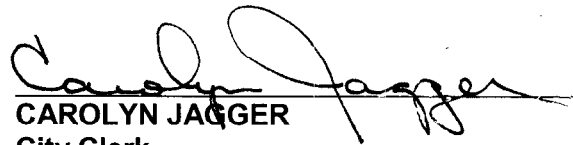
Officially approved by the City Council on December 12, 2005

C E R T I F I C A T E

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Regular Meeting of the City Council of Scottsdale, Arizona held on the 15th day of November 2005.

I further certify that the meeting was duly called and held, and that a quorum was present.

DATED this 12th day of December 2005.



CAROLYN JAGGER
City Clerk